



Atty. Dkt. No 049441-0141

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Akihiko TAKEUCHI et al.
Title: BLOOD PRESSURE-
LOWERING AGENT,
VASCULAR FLEXIBILITY-
AMELIORATING AGENT AND
FOODS HAVING THEIR
FUNCTIONS (As Amended)
Appl. No.: 10/542,344
International 1/16/2004
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Examiner: Michael V. Meller
Art Unit: 1655
Confirmation 2707
Number:

PETITION TO THE DIRECTOR UNDER 37 C.F.R. §§ 1.181 & 1.144

Director of the United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby petitions the Director under 37 C.F.R. §§ 1.181 & 1.144 for withdrawal of the restriction requirement imposed in the captioned application. This petition is timely filed because it is being filed after the final requirement for restriction set forth in the Office Communication dated June 27, 2007, but prior to appeal. *See* 37 C.F.R. § 1.144.

I. Action Requested

Applicant respectfully requests that the restriction requirement between Groups I and II be withdrawn because these groups share a technical relationship. That is, the groups share a "special technical feature" which, for each claimed invention when considered as a whole, defines a contribution over the prior art. (*See* PCT Rules 13.1 and 13.2).

II. Statement of Facts

1. On March 12, 2007, the Examiner issued a restriction requirement based on PCT Rule 13.1 dividing the claims into the following groups:

Group I: Claims 12 and 17 drawn to a method of lowering blood pressure;

Group II: Claim 13 drawn to a method of preventing, treating or ameliorating hypertension;

Group III: Claim 14 drawn to a method of improving vascular flexibility;

Group IV: Claim 15 drawn to a method of improving vascular endothelial function;

Group V: Claim 16 drawn to a method of dilating blood vessels or accelerating blood flow; and

Group VI: Claims 24-36 drawn to a food made of hops extract.

The basis for the restriction was an alleged lack of a shared technical feature in view of the abstract of JP 09000227, which describes a tea with a “refreshing taste” that is made from bracts of hops.

2. Applicant responded on April 10, 2007, by electing Group I with traverse. Applicant argued that the restriction requirement was improper, particularly, with respect to Group I and Group II. Applicant explained that Group I and Group II “have in common the blood pressure lowering activity of the recited materials,” and thus embody the same special technical feature.

3. In the Office Action mailed June 27, 2007, the Examiner maintained the restriction between Group I and Group II, stating only that “the application does not have a special technical feature as addressed in the restriction requirement.”

III. Argument

The methods of Group I (*e.g.*, claim 12) and Group II (*e.g.*, claim 13) both relate to the discovery that isohumulones are useful for lowering blood pressure (*i.e.*, treating hypertension). Claim 12 (as amended concurrently) recites a method of lowering blood pressure in a mammal suffering from hypertension, while claim 13 recites a method of

preventing, treating or ameliorating hypertension. Because "hypertension" is another way of saying "high blood pressure," a method of preventing, treating or ameliorating hypertension encompasses a method of lowering blood pressure in a mammal suffering from hypertension. Thus, the methods of Group I and Group II share a special technical feature.

The record reveals no prior art that teaches or suggests that isohumulones are useful to lower blood pressure or treat hypertension. Thus, this shared technical feature "defines a contribution which each of the claimed inventions, considered as a whole, makes over the prior art" (PCT Rule 13.2).

IV. Conclusion

For at least the foregoing reasons, the restriction between Group I and Group II should be withdrawn.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

Date November 27, 2007

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